

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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MICHAEL DIAZ

Plaintiff,

vs.

PORTFOLIO RECOVERY ASSOCIATES, LLC and  
MALEN & ASSOCIATES, P.C.

Defendants.  
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: Civil No. 1:10-CV-3920 (ERK)  
: (CLP)

: **NOTICE OF MOTION**

: NOVEMBER 24, 2010

**PLEASE TAKE NOTICE**, that upon the annexed affidavit of Thomas A. Leghorn, sworn to the 24th day of November, 2010, together with the supporting exhibits and Memorandum of Law, defendant, MALEN & ASSOCIATES, P.C. will move this Court to set a return date so that counsel may be heard seeking an order pursuant to Federal Rule 12(b)(6) dismissing plaintiff's Complaint as the plaintiff's allegations fail to state a cause of action for which relief may be granted, together with such other and further relief as this Court shall deem proper.

DATED: New York, New York  
November 24, 2010

Respectfully submitted,  
WILSON, ELSER, MOSKOWITZ,  
EDELMAN & DICKER LLP

By: 

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